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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/337,802 06/22/99 LUFFEL

R 109800296-1

EXAMINER

022879 TM02/1022
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INTELLECTUAL PROPERTY ADMINISTRATION
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DAVIS, D

ART UNIT

PAPER NUMBER

2652

DATE MAILED:

10/22/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

SM

Office Action Summary

Application No.

09/337,802

Applicant(s)

LUFFEL ET AL.

Examiner

David D. Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2001.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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Double Patenting

1. Claims 1 and 3-24 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 09/371,708. Both sets of claims recite a translation apparatus for a translation device including a first elongate gear rack; a second elongated gear rack; a first drive pinion and a second drive pinion and a drive pinion apparatus.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 1, 3-7, 12-19 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Tadokoro et al (US 6,166,877). Figure 19 of Tadokoro et al shows a modular data storage system for handling and storing data cartridges. Figure 19 also shows at least two laterally adjacent modular units; with each unit including a plurality of cartridge access devices 2. Figure 20 shows first and second elongated gear racks 32 aligned along a displacement path and positioned space-apart. Figure 19 of Tadokoro et al shows devices 2, which include racks 32, substantially in alignment with one another.

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Figures 20 and 21 show first and second drive pinions 41 mounted to cartridge access device 2 engaging respective racks 32. Pinion drive motor 34, as shown in figure 20 of Tadokoro et al, is operatively associated with pinions 41. Motor 34 rotates pinions 41 to move cartridge access device 2 among racks 32.

Figures 21 and 22 of Tadokoro et al show rack 32 including first and second elongated guide members 8 that extend along the displacement path substantially between first and second ends of racks 32. Bearings 33 mounted to cartridge device 2 engage first and second guide member 8. Also shown in figures 21 and 22 is first and second guide members 8 including first and second opposed bearing surfaces with bearings 33, which are mounted to device 2, slidably engaging the opposed bearing surfaces of member 8. Figures 20 of Tadokoro et al further shows motor 34 with worm and worm gear 39 attached to the shaft of motor 34 such that gear 39 is operatively connected to pinions 41.

Response to Arguments

4. Applicant's arguments filed August 9, 2001 have been fully considered but they are not persuasive. On page 10, in the second full paragraph, applicant asserts the following:

Tadokoro does not disclose an integral guide member and gear rack. Instead, the guide rails 8 disclosed in Tadokoro are separately connected to the rack members 32. This design increases the likelihood that the gears 41 and the rack members 32 are misaligned during assembly. Such misalignment may result in binding, slipping and/or uneven wear of the gears 41 and the rack members 32.

The merits of the design in the instant application are not debated. However, applicants have not shown, e.g. comparative testing or results, that the guide member and gear rack of Tadokoro would yield similar results and advantages as those purported by applicants on page 10. In other

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words, there is nothing to preclude the guide member and gear rack of Tadokoro from achieving the same or similar results.

Nonetheless, assuming arguendo evidence showing advantages of applicant's claimed invention over that disclosed by Tadokoro were submitted, Tadokoro does disclose, contrary to applicant's assertion, an integral guide member and guide rack. Integral, as defined by the courts, means rigidly secured, fastened or welded. Integrally is not necessarily restricted to a one-piece article.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Davis whose telephone number is (703) 308-1503. The

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examiner can normally be reached on Mon., Tues., Thurs. and Fri. between 7:30-6:00. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900. Any other inquiry should be directed to the customer service center whose telephone number is (703) 306-0377.



David D. Davis
Primary Examiner
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ddd
October 15, 2001